

REMARKS/ARGUMENTS

In the Final Office Action dated September 14, 2012 (hereinafter, "Office Action"), claims 1–4, 13–15, 17, 19–21, 23, 25–26, 28–29, 33–34, 38–39, 42–43 and 48–57 were rejected under 35 U.S.C. § 102(b). Claims 11–12, 16, 18, 22, 24 and 44–47 were allowed. By this paper, claims 1, 4, 13, 17, 19, 23–26, 42–43 and 48–57 are being amended.

Applicant respectfully responds to the Office Action.

I. Claims 1–4, 13–15, 17, 19–21, 23, 25–26, 28–29, 33–34, 38–39, 42–43 and 48–57 Rejected Under 35 U.S.C. § 102(b)

Claims 1–4, 13–15, 17, 19–21, 23, 25–26, 28–29, 33–34, 38–39, 42–43 and 48–57 stand rejected under 35 U.S.C. § 102(b)¹ as being anticipated by U.S. Patent No. 6,396,867 to Tiedemann et al. (hereinafter, "Tiedemann"). Applicant respectfully requests reconsideration in view of the above claim amendments and the following remarks.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing *Verdegaal Bros. v. Union Oil Co.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Id.* (citing *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicants' claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Claim 1 recites "[a]n apparatus comprising ... a link quality estimation unit operative to generate a link quality estimation in response to a forward link power control instruction received on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations." By this paper, Applicant has amended claim 1 to clarify that the forward link common channel is a "forward link common control channel." Support for the subject matter of this amendment is provided by at least paragraphs [1035] and [1038] of the filed specification.

¹ Applicant respectfully submits that this rejection under 35 U.S.C. § 102(b) is improper. Tiedemann issued as a patent on May 28, 2002 and was published after the February 21, 2001, filing date of the present application. At most, Tiedemann could only qualify as prior art under 35 U.S.C. § 102(e).

The Office Action maintains that Tiedemann discloses a forward link common channel that “is shared by a plurality of remote stations.” (Office Action, pages 2–3.) Applicant continues to disagree. Nevertheless, to further clarify claim 1’s differences with Tiedemann, Applicant has amended claim 1 to recite a “forward link common control channel.” Applicant respectfully submits that Tiedemann fails to disclose this subject matter.

Tiedemann describes a “method and apparatus for high rate forward link power control ... [that] improves the response time of the forward link power control loop and allows for dynamic adjustment of the transmission power on the forward link by measuring the quality of the reverse link power control bits which are transmitted on the forward traffic channel at multiple times within a frame.” (Tiedemann, col. 4, lines 41–48.) “In the exemplary embodiment, the reverse link power control bits are transmitted at a rate of 800 bps, or one power control bit for every 1.25 msec time slot.” (*Id.*, col. 6, lines 23–25.) “Transmitting the power control bits at evenly spaced intervals can result in the base station sending out power control bits to multiple remote stations at the same time.” (*Id.*, col. 6, lines 26–29.) In an exemplary communication system of Tiedemann, multiple base stations communicate with multiple remote stations. (*See id.*, col. 8, lines 25–29.)

As best understood, the Office Action asserts that Tiedemann’s forward traffic channel discloses claim 1’s “forward link common channel.” For the reasons explained in Applicant’s prior responses, Applicant respectfully reasserts that this assertion is incorrect. But even assuming for the sake of argument that the Office Action is correct, Tiedemann still fails to disclose the subject matter of amended claim 1. Amended claim 1 recites a “forward link common *control* channel.” (Emphasis added.) Tiedemann fails to disclose this subject matter. Instead, Tiedemann describes a “forward *traffic* channel.” (*See, e.g.*, Tiedemann, col. 4, lines 47, 58, 59; col. 6, lines 12, 39–41, 42; col. 7, lines 20–23; Fig. 3.) Thus, Tiedemann fails to disclose claim 1’s “identical invention ... in as complete detail as is contained in the ... claim.” *See* MPEP § 2131. Accordingly, Applicant respectfully submits that Tiedemann does not anticipate amended claim 1 because Tiedemann fails to disclose all of amended claim 1’s subject matter.

For at least the foregoing reasons, Applicant respectfully submits that amended claim 1 is allowable. Claims 2–3, 28 and 48 depend from claim 1, and are therefore allowable for at least the same reasons as claim 1.

Claim 4 recites “a transmitter operative to transmit the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 4 is allowable. Claims 29 and 49 depend from claim 4, and are therefore allowable for at least the same reasons as claim 4.

Claim 13 recites “generating a link quality estimation in response to a forward link power control instruction received on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 13 is allowable. Claims 14–15, 33 and 50 depend from claim 13, and are therefore allowable for at least the same reasons as claim 13.

Claim 17 recites “transmitting the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 17 is allowable. Claims 34 and 51 depend from claim 17, and are therefore allowable for at least the same reasons as claim 17.

Claim 19 recites “means for generating a link quality estimation in response to a forward link power control instruction received on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 19 is allowable. Claims 20–21, 38 and 52 depend from claim 19, and are therefore allowable for at least the same reasons as claim 19.

Claim 23 recites “means for transmitting the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote station.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 23 is allowable. Claims 39 and 53 depend from claim 23, and are therefore allowable for at least the same reasons as claim 23.

Claim 25 recites “generating a link quality estimation in response to a forward link power control instruction received on a forward link common control channel, wherein the remote station shares the forward link common control channel with at least one other remote station.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 25 is allowable. Claim 54 depends from claim 25, and is therefore allowable for at least the same reasons as claim 25.

Claim 26 recites “transmitting the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 26 is allowable. Claim 55 depends from claim 26, and is therefore allowable for at least the same reasons as claim 55.

Claim 42 recites “a link quality estimation unit operative to generate a link quality estimation in response to a forward link power control instruction received on a forward link common control channel, wherein the remote station shares the forward link common control channel with at least one other remote station.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 42 is allowable. Claim 56 depends from claim 42, and is therefore allowable for at least the same reasons as claim 42.

Claim 43 recites “a transmitter operative to transmit the forward link power control instruction on a forward link common control channel, wherein the forward link common control channel is shared by a plurality of remote stations.” As discussed above, Tiedemann does not disclose this claimed subject matter. Accordingly, Applicant respectfully submits that amended claim 43 is allowable. Claim 57 depends from claim 43, and is therefore allowable for at least the same reasons as claim 43.

II. Allowable Subject Matter

Applicant thanks the Examiner for allowing claims 11–12, 16, 18, 22, 24 and 44–47.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that all pending claims in the present application are in a condition for allowance, which is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 10/29/12

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